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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/698,310	10/27/2000	William L. Reber	MNE00586	6204
22917	7590	05/12/2005	EXAMINER	
MOTOROLA, INC. 1303 EAST ALGONQUIN ROAD IL01/3RD SCHAUMBURG, IL 60196			KRAMER, JAMES A	
			ART UNIT	PAPER NUMBER
			3627	

DATE MAILED: 05/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/698,310

**Applicant(s)**

REBER, WILLIAM L.

**Examiner**

James A. Kramer

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 1/24/05.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-31 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1,2,5,6,7,11,12,13,16,17,18,22,23,26,27,28 and 32 are rejected under 35

U.S.C. 102(e) as being anticipated by Henry.

Henry teaches a product recognition apparatus which provides a convenient way for a customer to obtain information about an item without first having to know what the item is.

Henry teaches the system specifically used for an produce item, where a produce item is placed over a window in the data collector, the item is illuminated and the spectrum of the diffuse reflected light from the item is measure (column 1; lines 35-39). Examiner notes that a produce item represents Applicant's product and the previous teaching represents capturing an image.

Henry further teaches the terminal determines candidate items and displays the candidates for operator verification (column 1; lines 40-44). Examiner notes that this represents providing a plurality of object classes and receiving an object class selection from the menu.

Henry further teaches a recognition apparatus and method of obtaining information about the items (column 1; lines 48-50). Examiner notes that this represents providing task menu specific to the object class and receiving a task selection from the task menu. In addition the

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system facilitates a task associated with the object (e.g. recipe, nutritional and other information for the items).

Examiner further notes Henry teaches the object class including a product class (e.g. produce).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3,4,8,9,10,14,15,19,20,21,24,25,29,30 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Henry in view of Admitted Prior Art.

The common knowledge or well-known in the art statement made by the Examiner in the Office Action mailed 9/8/04 is taken to be admitted prior art because applicant either failed to traverse the examiner's assertion of Official Notice or the traverse was inadequate (MPEP2144.03(C)).

Henry does not teach a person, company, location or event object class. Examiner notes that it is old and well known in the art for individuals to want information associated with a person, a company, a location or an event. As such It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the system of Henry, in order to recognize either a person, company, location or event via the object recognition data collector and then provide the user with information (tasks) associated with the identified person, company, location or event. One of ordinary skill in the art would have been motivated to

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combine the art provided in order to allow user to quickly ascertain information desired about an object.

### ***Response to Arguments***

Applicant's arguments filed 1/25/05 have been fully considered but they are not persuasive. Applicant argues that Henry does not teach displaying object classes but rather candidate objects.

Examiner respectfully disagrees and asserts that the object verification feature of Henry supports object classes. For instance, one of ordinary skill in the art at the time of the invention was made would realize that most grocery stores have multiple varieties of each piece of produce (e.g. organic tomatoes, local tomatoes, regular tomatoes, etc.). Therefore it is consistent with the teaching that the verification software would include an object classes (i.e. tomatoes) and then require verification of the specific type of tomatoes (candidate object).

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

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CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to James A. Kramer whose telephone number is (571) 272 6783. The examiner can normally be reached on Monday - Friday (8AM - 5PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached on (571) 272 6777. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

James A. Kramer  
Examiner  
Art Unit 3627

jak

  
Richard Chilcot  
Supervisory Patent Examiner  
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